IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

Bail Appl..No. 2265 of 2007()

(CRIME NO. 95/07 OF KURAVILANGAD POLICE STATION, KOTTAYAM)

PETITIONERS:

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1. SAIJU JOHN, AGED 25 YEARS,
   S/O.K.O.JOHN, RESIDING AT KURISUMOOTTIL HOUSE,
   PATTITHANAM (PO), ETTUMANOOR, KOTTAYAM DISTRICT.

2. JUSTIN JOSE, AGED 25 YEARS,
   S/O.ABRAHAM JOSE, KURISUMOOTTIL HOUSE,
   PATTITHANAM (PO), ETTUMANOOR, KOTTAYAM DISTRICT.

3. BIBIN MATHEW, AGED 22 YEARS,
   S/O.T.A.MATHEW, THAVALAKKUZHIYIL HOUSE,
   KANAKKARI (PO), KOTTAYAM DISTRICT.

BY ADV. SRI.N.NANDAKUMARA MENON
SRI.P.K.MANOJKUMAR

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
   THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. THE CIRCLE INSPECTOR OF POLICE,
   ETTUMANOOR, KOTTAYAM DISTRICT.

3. THE SUB INSPECTOR OF POLICE,
   KURAVILANGAD POLICE STATION, KOTTAYAM DISTRICT.

BY SRI.P.G. THAMPI(DIRECTOR GENERAL OF PROSECUTION)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

B.A. No. 2265 OF 2007

Dated this the 12th day of April, 2007

O R D E R

Petitioners, who are accused Nos.1 to 3 in Crime No.95/07 of Kuravilangad Police Station for an offence punishable under section 394 IPC, seek anticipatory bail.

2. Sri.P.G.Thampi, Director General of Prosecution, opposed the application.

3. The case of the prosecution is that the defacto complainant along with his wife and infant were proceeding from Kadappoor to Vembally in his Maruti car after he was informed that his mother-in-law was serious. The defacto complainant, who is the Additional District Government Pleader and Public Prosecutor of Kottayam was proceeding to Kaduthuruthy. He himself was driving the car. While he was about to enter the M.C.Road at Vembally, three persons signalled the car to stop. He pulled up the car and asked them to move away. They did not obey him. While so, two of them abusing him in filthy language came near the driver's door and repeatedly fisted him on his face for more than five times. They, then attempted to forcibly take out his purse and in that process, the purse fell down in the Maruti car. Hearing the screams of his wife, people came running. Finding that

people were fast approaching, the three accused persons got into a blue Maruti Omni Van and decamped from there. The Van did not have any registration number and on its number plate there was a sticker bearing “For Registration”. It occurred to the defacto complainant that the 3 accused persons had acted as above with a view to rob him of his money and other belongings.

4. According to the petitioner, it is a false case foisted on the petitioners who are decently employed and that even if the allegations in the F.I.Statement are true it may at best amount only to offences punishable under sections 341 and 323 IPC.

5. According to the prosecution, the first accused is involved in an abkari offence and the very fact that the Maruti Omni Van in which they were travelling was subsequently found abandoned near the premises of a Church will strengthen the complicity and intention of the petitioners.

6. In as much as, going by the averments in the complaint, an attempt was made during the dead of the night to rob the defacto complainant of his money and he was also attacked by the three persons, who were waiting on the road after parking the Maruti Omni Van on the side of the road, I am not inclined to grant anticipatory bail to the petitioners. Anticipatory bail cannot be granted in a case of this nature. There is no reason why the petitioners should not surrender

before the Magistrate having jurisdiction and seek regular bail. Accordingly, if the petitioners surrender before the Magistrate concerned and file an application for regular bail within two weeks from today, the same shall be considered and disposed of preferably on the same date on which it is filed.

This application is disposed of as above.

(V. RAMKUMAR, JUDGE)

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